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Insurance Bulletin No. 224 (Revised)

Termination of Medicaid Continuous Enrollment Requirement and Medicare Supplement Guaranteed Issue Eligibility

Revised April 2, 2024

The purpose of this bulletin is to clarify the application of Department Regulation H-2009-04 (Revised) to individuals previously enrolled in Vermont Medicaid under section 6008(b)(3) of the Families First Coronavirus Response Act (FFCRA) and associated regulatory guidance.¹ Among other things, the FFCRA generally required states, in exchange for enhanced funding, to provide continuous Medicaid coverage for beneficiaries enrolled as of March 18, 2020 and thereafter, through the end of the month that the COVID-19 Public Health Emergency (PHE) terminated.² As part of the Consolidated Appropriations Act, 2023 (CAA), Congress ended the Medicaid continuous enrollment provision effective March 31, 2023.³ Beginning April 1, 2023, states are resuming normal Medicaid eligibility operations including required annual redeterminations and termination for ineligible individuals.⁴

Under Regulation H-2009-04, Vermonters both 65 years of age or older and enrolled for benefits under Medicare Part B are entitled to a six-month open enrollment and guaranteed issue period during which insurers must offer Medicare Supplement plans to applicants and cannot engage in medical underwriting. During the PHE, many Vermonters enrolled in Medicaid but eligible

¹ See Centers for Medicare and Medicaid Servs., Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency, 85 F.R. 71142, 71161-63 (Nov. 6, 2020), available at <https://www.federalregister.gov/documents/2020/11/06/2020-24332/additional-policy-and-regulatory-revisions-in-response-to-the-covid-19-public-health-emergency>.

² See Centers for Medicare and Medicaid Servs., COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children's Health Insurance Program (CHIP) Agencies, question I.1 (Jan. 6, 2021), available at <https://www.medicaid.gov/state-resource-center/downloads/covid-19-faqs.pdf>.

³ Consolidated Appropriations Act, 2023, Sec. 2, Division FF, Title V, Subtitle D, Sec. 5131, available at <https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf>.

⁴ CMCS Informational Bulletin, Key Dates Related to the Medicaid Continuous Enrollment Condition Provisions in the Consolidated Appropriations Act, 2023 (Jan. 5, 2023), available at <https://www.medicaid.gov/federal-policy-guidance/downloads/cib010523.pdf>.



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for Medicare by reason of age under 42 C.F.R. § 406.20(b) did not enroll in Medicare Part B upon turning 65.

To ensure that Vermont seniors have access to Medicare Supplement Plans and to ensure consistency with the intent of Regulation H-2009-04's provisions related to other insurance coverage, the Commissioner directs all Vermont Medicare Supplement issuers to:

1. Issue any Medicare Supplement policy offered for sale in this State to an applicant eligible for Medicare if the applicant satisfies all of the following:
 - a. Enrolled in Vermont Medicaid.
 - b. Enrolled in in Medicare Parts A and B within six (6) months of the later date of
 - i. Notice of termination or disenrollment of Vermont Medicaid benefits;
or
 - ii. If notice of termination or disenrollment is not received, notice that a claim has been denied because of such a termination or disenrollment;
or
 - iii. The date that the Vermont Medicaid benefits terminate or cease.
 - c. Applies for a Medicare Supplement policy during the 63-day period following the date of enrollment in Medicare Part B;
 - d. Certifies the date of termination or disenrollment from Vermont Medicaid with the application for a Medicare supplement policy.
2. Issue any Medicare Supplement policy offered for sale in this State to an applicant enrolled in Medicare Parts A and B if the applicant satisfies all of the following:
 - a. exhausted their initial open enrollment period because of their continued enrollment in Vermont Medicaid (including those with both Medicaid and Medicare policies, referred to as "dual eligible" individuals).
 - b. Applies for a Medicare Supplement policy within six (6) months of the later date of
 - i. Notice of termination or disenrollment of Vermont Medicaid benefits;
or
 - ii. If notice of termination or disenrollment is not received, notice that a claim has been denied because of such a termination or disenrollment;
or
 - iii. The date that the Vermont Medicaid benefits terminate or cease.
 - c. Certifies the date of termination or disenrollment from Vermont Medicaid with the application for a Medicare supplement policy.
3. Apply the Guaranteed Issue provisions of Regulation H-2009-04 § 12.A.(2) with respect to applicants described in paragraphs 1 and 2 above.

To align with the Department of Vermont Health Access's timeline for Medicaid renewals, this Bulletin will remain in effect until January 1, 2025.

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DocuSigned by:

Kevin Gaffney

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Kevin Gaffney, Commissioner

4/19/2024

Date